

If a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a GIL).

July 29, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 2, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The purpose of this letter is to seek guidance from the Illinois Department of Revenue by requesting the issuance of a General Information Letter pursuant to Section 122.120 of the Illinois Administrative Code.

We are the certified public accountants for a STATE corporation which is a distributor of products used in the construction industry (i.e., 'the taxpayer'). The corporation does business in various parts of the U.S. including Illinois. In fact, the taxpayer has several locations in Illinois.

The Company has an Illinois-based customer that orders merchandise--by telephone--from one of the taxpayer's Illinois distribution outlets ('Location A') but the customer arranges for its personnel to pick up the merchandise at another of the taxpayer's Illinois distribution outlets ('Location B'). The two locations are in different Illinois counties. The sales tax rate at Location A is 6.5%; the sales tax rate at Location B is 7.5%.

The taxpayer has been charging the customer the lower sales tax rate since, it is our understanding--based on a telephone call with a member of the Department of Revenue--that if the taxpayer's customer has its staff order all of its purchases from Location A but simply decides, for administrative convenience, to take delivery at Location B, then the sales tax rate at Location A should govern. We are seeking confirmation of this point.

Please feel free to call me at #### if you need additional information to process this request for a General Information Letter.

July 29, 1999

For your general information, please see the enclosed copy of Sec. 270.115 of the Home Rule Municipal Retailers' Occupation Tax for guidance concerning jurisdictional questions. In general, the imposition of the various sales tax related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although the regulation cited previously (86 Ill. Adm. Code 270.115) deals with the municipal Home-Rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.